



General Assembly

February Session, 2006

Raised Bill No. 5729

LCO No. 2906

02906_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING MOTOR VEHICLE REPAIRS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) Each motor vehicle
2 repair shop, as defined in section 14-65e of the general statutes, shall
3 employ at least one motor vehicle physical damage appraiser licensed
4 under the provisions of section 38a-790 of the general statutes, as
5 amended by this act, for the purpose of preparing appraisals or
6 estimates of damages of motor vehicles and the cost of repairs for such
7 damages. All negotiations between an insurer authorized in this state
8 to issue automobile liability insurance policies, as defined in section
9 38a-341 of the general statutes, or the insurer's representative and such
10 repair shop concerning the cost of repairs for any damage to a motor
11 vehicle insured by such insurer shall be conducted by such appraiser
12 on behalf of such repair shop.

13 (b) On or after October 1, 2006, an appraisal or estimate of damages
14 of motor vehicles written by a motor vehicle physical damage
15 appraiser employed by a motor vehicle repair shop on behalf of such
16 repair shop for a physical damage claim shall contain a conspicuous
17 written notice printed in not less than ten-point boldface type, that

18 shall read as follows: "YOU HAVE THE RIGHT TO BRING YOUR
19 VEHICLE FOR REPAIRS TO ANY MOTOR VEHICLE REPAIR SHOP.
20 YOU MAY CONTACT YOUR INSURANCE AGENT FOR A LIST OF
21 MOTOR VEHICLE REPAIR SHOPS IN YOUR AREA."

22 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) No insurer which issues
23 in this state automobile liability insurance policies, as defined in
24 section 38a-341 of the general statutes, shall be liable for supplemental
25 charges assessed by a motor vehicle repair shop, as defined in section
26 14-65e of the general statutes, unless the insurer or the insurer's
27 representative is given reasonable notice by such repair shop of the
28 need for supplemental repairs and a reasonable opportunity to inspect
29 the motor vehicle prior to the commencement of such repairs. For
30 purposes of this subsection, "supplemental charges" means (1) charges
31 for additional parts or labor found to be necessary by such repair shop
32 during the course of repair work where the charges are not included in
33 the initial estimate of the parts and labor necessary to complete the
34 repair, or (2) any deviation by such repair shop from any initial
35 authorization for parts or labor as prepared by the insurer or the
36 insurer's representative that is legally liable for compensating an
37 insured for damage to the vehicle.

38 (b) A motor vehicle repair shop shall make any damaged motor
39 vehicle in its possession available for inspection throughout the repair
40 process by the insurer of such vehicle, or the insurer's representative,
41 provided (1) reasonable notice is given to such repair shop of the
42 insurer's intent to inspect such vehicle; and (2) the inspection is
43 conducted during the posted hours of operation of such repair shop.

44 (c) Such insurer or the insurer's representative may waive the right
45 to inspect a motor vehicle under the provisions of this section.

46 Sec. 3. (NEW) (*Effective from passage*) (a) Not later than January 1,
47 2007, each insurer which issues in this state automobile liability
48 insurance policies, as defined in section 38a-341 of the general statutes,
49 shall file with the Insurance Commissioner the methods and guidelines

50 used by such insurer to determine labor rates for the repair of damages
51 to motor vehicles in this state. Such insurer shall file any modifications
52 to such methods and guidelines with said commissioner.

53 (b) Any modification of such methods and guidelines shall be on file
54 with the commissioner for a waiting period of thirty days before they
55 become effective. The commissioner may extend the waiting period for
56 an additional extension period not to exceed thirty days if the
57 commissioner gives the insurer that made the filing written notice
58 within the waiting period. The written notice shall indicate that the
59 commissioner needs additional time to consider the filing. Upon
60 written application by such insurer, the commissioner may authorize a
61 filing that the commissioner has reviewed to become effective before
62 the expiration of the waiting period or any extension period. A filing
63 shall be deemed approved unless disapproved by the commissioner
64 within the waiting period or any extension period. If, within the
65 waiting period or any extension period, the commissioner disapproves
66 the filing, the commissioner shall send the insurer that made such
67 filing written notice of disapproval, specifying the reasons for
68 disapproval and stating that such filing shall not become effective.
69 Such finding of the commissioner shall be subject to review as
70 provided in section 38a-19 of the general statutes.

71 (c) Notwithstanding the provisions of section 1-210 of the general
72 statutes, such methods and guidelines filed by such insurers with said
73 commissioner shall be confidential and shall not be disclosed.

74 Sec. 4. Section 14-64 of the 2006 supplement to the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2006*):

77 The commissioner may suspend or revoke the license or licenses of
78 any licensee or impose a civil penalty of not more than one thousand
79 dollars for each violation on any licensee or both, when, after notice
80 and hearing, the commissioner finds that the licensee (1) has violated
81 any provision of any statute or regulation of any state or any federal

82 statute or regulation pertaining to its business as a licensee or has
83 failed to comply with the terms of a final decision and order of any
84 state department or federal agency concerning any such provision; or
85 (2) has failed to maintain such records of transactions concerning the
86 purchase, sale or repair of motor vehicles or major component parts, as
87 required by such regulations as shall be adopted by the commissioner,
88 for a period of two years after such purchase, sale or repairs, provided
89 the records shall include the vehicle identification number and the
90 name and address of the person from whom each vehicle or part was
91 purchased and to whom each vehicle or part was sold, if a sale
92 occurred; or (3) has failed to allow inspection of such records by the
93 commissioner or the commissioner's representative during normal
94 business hours, provided written notice stating the purpose of the
95 inspection is furnished to the licensee, or has failed to allow inspection
96 of such records by any representative of the Division of State Police
97 within the Department of Public Safety or any organized local police
98 department, which inspection may include examination of the
99 premises to determine the accuracy of such records; or (4) has made a
100 false statement as to the condition, prior ownership or prior use of any
101 motor vehicle sold, exchanged, transferred, offered for sale or repaired
102 if the licensee knew or should have known that such statement was
103 false; or (5) is not qualified to conduct the licensed business, applying
104 the standards of section 14-51 and the applicable regulations; or (6) has
105 violated any provision of sections 42-221 to 42-226, inclusive, as
106 amended; or (7) has failed to fully execute or provide the buyer with
107 (A) an order as described in section 14-62, (B) the properly assigned
108 certificate of title, or (C) a temporary transfer or new issue of
109 registration; or (8) has failed to deliver a motor vehicle free and clear of
110 all liens, unless written notification is given to the buyer stating such
111 motor vehicle shall be purchased subject to a lien; or (9) has violated
112 any provision of sections 14-65f to 14-65j, inclusive, or section 1 or 2 of
113 this act; or (10) has used registration number plates issued by the
114 commissioner, in violation of the provisions and standards set forth in
115 sections 14-59 and 14-60 and the applicable regulations; or (11) has

116 failed to secure or to account for or surrender to the commissioner on
117 demand official registration plates or any other official materials in its
118 custody. In addition to, or in lieu of, the imposition of any other
119 penalties authorized by this section, the commissioner may order any
120 such licensee to make restitution to any aggrieved customer.

121 Sec. 5. Section 14-65h of the general statutes is repealed and the
122 following is substituted in lieu thereof (*Effective October 1, 2006*):

123 (a) All work done by a motor vehicle repair shop, including sublet
124 repair work or repair work under warranty, shall be recorded on an
125 invoice which shall specify the name and address of the repair shop,
126 describe all service work done and parts supplied and state the cost of
127 such service work and parts supplied, separately itemized. If any used
128 parts are supplied, the invoice shall clearly state that fact. If any
129 component system installed is composed of new and used parts, such
130 invoice shall clearly state that fact. One copy of the invoice shall be
131 given to the customer and one copy shall be retained by the motor
132 vehicle repair shop. Any warranty made by a repair shop with respect
133 to any repair work performed shall be stated in writing. If such written
134 warranty does not include the cost of both parts and labor, it shall
135 specifically state which is excluded from the scope of such warranty.

136 (b) The motor vehicle repair shop shall make available to the
137 customer, if requested by the customer at the time written or oral
138 authorization is provided for work to be performed, all replaced parts,
139 components or equipment. If the repair shop is required to return such
140 parts, components or equipment to the manufacturer or other person
141 under any warranty or rebuilding arrangement, the repair shop shall
142 make them available to the customer for inspection only.

143 (c) The motor vehicle repair shop shall make available, if requested
144 by an insurer which issued an automobile liability policy on a motor
145 vehicle that has been repaired or such insurer's representative, a copy
146 of the invoice. The motor vehicle repair shop shall certify, under
147 penalty of false statement, that any deductible has been paid by the

148 insured, that the estimated repairs were made and that such repairs
149 included all items allowed by the insurer.

150 Sec. 6. Section 38a-790 of the general statutes is repealed and the
151 following is substituted in lieu thereof (*Effective October 1, 2006*):

152 (a) No person shall act as an appraiser for motor vehicle physical
153 damage claims on behalf of any insurance company, motor vehicle
154 repair shop, as defined in section 14-65e, or any firm or corporation
155 engaged in the adjustment or appraisal of motor vehicle claims unless
156 such person has first secured a license from the Insurance
157 Commissioner, and has paid the license fee specified in section 38a-11,
158 as amended, for each two-year period or fraction thereof. The license
159 shall be applied for as provided in section 38a-769, as amended. The
160 commissioner may waive the requirement for examination in the case
161 of any applicant for a motor vehicle physical damage appraiser's
162 license who is a nonresident of this state and who holds an equivalent
163 license from any other state. Any such license issued by the
164 commissioner shall be in force until the thirtieth day of June in each
165 odd-numbered year unless sooner revoked or suspended. The license
166 may, in the discretion of the commissioner, be renewed biennially
167 upon payment of the fee specified in section 38a-11, as amended. The
168 commissioner may adopt reasonable regulations concerning standards
169 for qualification, suspension or revocation of such licenses and the
170 methods by which licensees shall conduct their business.

171 (b) Any person who violates any provision of this section shall be
172 fined not more than five hundred dollars or imprisoned not more than
173 one year or both.

174 (c) Any person who has been engaged in the business of motor
175 vehicle physical damage appraising for a period of two consecutive
176 years immediately prior to July 1, 1968, shall be granted a license upon
177 application with no further qualifications. The commissioner may
178 waive the examination required under section 38a-769, as amended, in
179 the case of an applicant who at any time within two years next

180 preceding the date of application has been licensed in this state under
181 a license of the same type as the license applied for.

182 (d) For purposes of this section and section 38a-769, as amended:

183 (1) "Motor vehicle" is defined as provided in section 14-1, as
184 amended;

185 (2) "Motor vehicle physical damage appraiser" means (A) any
186 person, partnership, association, limited liability company or
187 corporation which practices as a business the appraising of damages to
188 motor vehicles insured under automobile physical damage policies or
189 on behalf of third party claimants, or (B) any person who appraises or
190 estimates damage to motor vehicles on behalf of a motor vehicle repair
191 shop, as defined in section 14-65e.

192 Sec. 7. Section 38a-9 of the general statutes is repealed and the
193 following is substituted in lieu thereof (*Effective October 1, 2006*):

194 (a) Notwithstanding the provisions of section 4-8, there shall be a
195 Division of Consumer Affairs within the Insurance Department, which
196 division shall act on the Insurance Commissioner's behalf and at his
197 direction in order to carry out his responsibilities under this title with
198 respect to such matters. The division shall receive and review
199 complaints from residents of this state concerning their insurance
200 problems, including claims disputes, and serve as a mediator in such
201 disputes in order to assist the commissioner in determining whether
202 statutory requirements and contractual obligations within the
203 commissioner's jurisdiction have been fulfilled. There shall be a
204 director of said division, who shall be provided with sufficient staff.
205 The division shall serve to coordinate all appropriate facilities in the
206 department in addressing such complaints, and conduct any outreach
207 programs deemed necessary to properly inform and educate the public
208 on insurance matters. The director shall submit quarterly reports to the
209 commissioner, which shall state the number of complaints received by
210 the division in such calendar quarter, the Connecticut premium

211 volume of the appropriate line of each insurance company against
212 which a complaint has been filed, the types of complaints received,
213 and the number of such complaints which have been resolved. Such
214 reports shall be published every six months and copies shall be made
215 available to any interested resident of this state upon request. The
216 commissioner shall report to the joint standing committee of the
217 General Assembly having cognizance of matters relating to insurance
218 on or before January 15, 1988, and annually thereafter, concerning the
219 findings of such reports and suggestions for legislative initiatives to
220 address recurring problems.

221 (b) (1) [The Division of Consumer Affairs shall provide an
222 independent arbitration procedure] There is established an
223 independent dispute resolution board within the Insurance
224 Department for administrative purposes only for the settlement of
225 disputes between claimants and insurance companies concerning
226 automobile physical damage and automobile property damage
227 liability claims in which liability and coverage are not in dispute. [Such
228 procedure shall apply only to] Said board shall resolve disputes
229 involving private passenger motor vehicles as defined in subsection (e)
230 of section 38a-363, as amended. Any company licensed to write private
231 passenger automobile insurance, including collision, comprehensive
232 and theft, in this state shall participate in the [arbitration procedure.
233 The commissioner shall appoint an administrator for such procedure.
234 Only those disputes in which attempts at mediation by the Division of
235 Consumer Affairs have failed shall be accepted as arbitrable]
236 proceedings of the board. The referral of the complaint to [arbitration]
237 the board shall be made by the Insurance Department examiner who
238 investigated the complaint. Each party to the dispute shall pay a filing
239 fee of twenty dollars. The insurance company shall pay the consumer
240 the undisputed amount of the claim upon written notification from the
241 department that the complaint has been referred to [arbitration] the
242 board. Such payment shall not affect any right of the consumer to
243 pursue the disputed amount of the claim.

244 (2) The independent dispute resolution board shall be composed of
 245 seven members appointed as follows: One member who represents
 246 the insurance industry, appointed by the president pro tempore of the
 247 Senate; one member who represents the motor vehicle repair industry,
 248 appointed by the speaker of the House of Representatives; one
 249 member who represents the insurance industry, appointed by the
 250 majority leader of the Senate; one member who represents the motor
 251 vehicle repair industry, appointed by the majority leader of the House
 252 of Representatives; one member who represents the insurance
 253 industry, appointed by the minority leader of the Senate; one member
 254 who represents the motor vehicle repair industry, appointed by the
 255 minority leader of the House of Representatives; and one member
 256 appointed by the Governor who is a public member who shall not
 257 have any ties to the insurance industry or to the motor vehicle repair
 258 industry. All determinations and decisions of the board shall be by
 259 majority vote.

260 [(2)] (3) [The commissioner shall prepare a list of at least ten
 261 persons, who have not been employed by the department or an
 262 insurance company during the preceding twelve months, to serve as
 263 arbitrators in the settlement of such disputes. The arbitrators shall be
 264 members of any dispute resolution organization approved by the
 265 commissioner. One arbitrator shall be appointed to hear and decide
 266 each complaint. Appointment shall be based solely on the order of the
 267 list. If an arbitrator is unable to serve on a given day, or if either party
 268 objects to the arbitrator, then the next arbitrator on the list will be
 269 selected.] The department shall schedule [arbitration] hearings of the
 270 board as often, and in such locations, as [it] the board deems necessary.
 271 Parties to the dispute shall be provided written notice of the hearing, at
 272 least ten days prior to the hearing date. The commissioner may issue
 273 subpoenas on behalf of the [arbitrator] board to compel the attendance
 274 of witnesses and the production of documents, papers and records
 275 relevant to the dispute. Decisions shall be made on the basis of the
 276 evidence presented at the [arbitration] hearing. Where the [arbitrator]
 277 board believes that technical expertise is necessary to decide a case,

278 [he] it may consult with an independent expert recommended by the
 279 commissioner. [The arbitrator and any] Any independent technical
 280 expert shall be paid by the department on a per dispute basis as
 281 established by the commissioner. The [arbitrator] board, as
 282 expeditiously as possible, but not later than [fifteen] thirty days after
 283 the [arbitration hearing] receipt of the complaint, shall render a written
 284 decision based on the information gathered and disclose the findings
 285 and the reasons to the parties involved. The [arbitrator] board shall
 286 award filing fees to the prevailing party. If the decision favors the
 287 consumer, the decision shall provide specific and appropriate
 288 remedies including interest at the rate of ten per cent on the
 289 [arbitration] award concerning the disputed amount of the claim,
 290 retroactive to the date of payment for the undisputed amount of the
 291 claim. The decision may include costs for loss of use and storage of the
 292 motor vehicle and shall specify a date for performance and completion
 293 of all awarded remedies. Notwithstanding any provision of the general
 294 statutes or any regulation to the contrary, the Insurance Department
 295 shall not amend, reverse, rescind [,] or revoke any decision or action of
 296 [any arbitrator] the board. The department shall contact the consumer
 297 within ten working days after the date for performance, to determine
 298 whether performance has occurred. Either party may make application
 299 to the superior court for the judicial district in which one of the parties
 300 resides or, when the court is not in session, any judge thereof for an
 301 order confirming, vacating, modifying or correcting any award. [, in
 302 accordance with the provisions of sections 52-417, 52-418, 52-419 and
 303 52-420.] If it is determined by the court that either party's position after
 304 review has been improved by at least ten per cent over that party's
 305 position after [arbitration] the board's proceeding, the court, in its
 306 discretion, may grant to that party its costs and reasonable attorney's
 307 fees. No evidence, testimony, findings [,] or decision from [the
 308 department arbitration procedure] such proceeding shall be admissible
 309 in any civil proceeding, except judicial review of the [arbitrator's]
 310 board's decision as contemplated by this subsection.

311 [(3)] (4) The department shall maintain records of each dispute,

312 including names of parties [to the arbitration] involved in the dispute,
313 the decision of the [arbitrator] board, compliance, the appeal, if any,
314 and the decision of the court. The department shall annually compile
315 such statistics and send a copy to the committee of the General
316 Assembly having cognizance of matters relating to insurance. The
317 report shall be considered a public document.

318 (c) Notwithstanding the provisions of section 4-8, there shall be a
319 Division of Rate Review within the Insurance Department, which
320 division shall act on the commissioner's behalf and at the
321 commissioner's direction in order to carry out the commissioner's
322 responsibilities under this title with respect to such matters. Subject to
323 the provisions of sections 38a-663 to 38a-696, inclusive, the division
324 shall assist the commissioner in reviewing rates and supplementary
325 rate information filed with the department for compliance with
326 statutory requirements and standards. The division's staff shall include
327 rating examiners with sufficient actuarial expertise. Upon the request
328 of the commissioner, the division shall review rates and
329 supplementary rate information, and any suspected violation of the
330 statutory requirements and standards of sections 38a-663 to 38a-696,
331 inclusive, found pursuant to such review shall be referred to the
332 commissioner for appropriate action. The division may assist the
333 commissioner in formalizing the commissioner's findings regarding
334 such actions. The commissioner shall report to the joint standing
335 committee of the General Assembly having cognizance of matters
336 relating to insurance on or before January 15, 1988, and annually
337 thereafter, concerning (1) the number and type of reviews conducted
338 by the division in the prior calendar year, and (2) the percentage of
339 increase or decrease in rates reviewed by the division during the
340 preceding calendar year, by line and subline of insurance.

341 (d) The directors and staff of both the Division of Consumer Affairs
342 and the Division of Rate Review shall be appointed by the
343 commissioner under the provisions of chapter 67.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>October 1, 2006</i>	14-64
Sec. 5	<i>October 1, 2006</i>	14-65h
Sec. 6	<i>October 1, 2006</i>	38a-790
Sec. 7	<i>October 1, 2006</i>	38a-9

Statement of Purpose:

To require all persons employed by motor vehicle repair shops that prepare appraisals or estimates for motor vehicle physical damage claims to be licensed as motor vehicle physical damage appraisers; to require all negotiations between such repair shops and insurers to be conducted by licensed appraisers; to allow insurers to inspect the damaged motor vehicle before supplemental repairs are made; to require such repair shops to provide information to insurers on the repairs that were made; and to establish an independent dispute resolution board for the efficient and speedy settlement of disputes between claimants and insurance companies re automobile physical damage and property liability damage claims in lieu of the current arbitration procedure.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]